

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 15258US05)

In the Application of:

Ahmadreza Rofougaran et al.

U.S. Serial No.: 09/699,019

Filed: October 27, 2000

For: ADAPTIVE RADIO TRANSCEIVER
WITH A BANDPASS FILTER

Examiner: Marceau Milord

Group Art Unit: 2618

Confirmation No.: 5832

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/Michael T. Cruz/
Michael T. Cruz
Reg. No. 44,636

Commissioner for Patents

P.O. Box 1450

Alexandria, VA, 22313-1450

Attention: Refund Section, Accounting Division, Office of Finance

REQUEST FOR REFUND
(37 C.F.R. § 1.28(a))

NOTE: 37 C.F.R. § 1.28(a): "(a) Refunds based on later establishment of small entity status. A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee."

NOTE: Submission of a Change of Status (small/not small entity status) after issuance of the Notice of Allowance in an application does **not** result in a reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(10). See Notice of May 29, 2001, 1247 OG 111-112, June 26, 2001.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(A) AND 1.10*
(When using Express Mail, the Express Mail label number is **mandatory**;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Alexandria, VA, 22313
37 C.F.R. § 1.8(a)

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Date: November 27, 2007

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* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

I SUBMISSION OF SMALL ENTITY ASSERTION

(complete (a) or (b))

(a) Attached is an assertion of small entity status in this application.

(b) An assertion of small entity status was filed in this application on _____.

II REFUND REQUEST

NOTE: 37 C.F.R. § 1.28(b)(1): "(b) Date of payment. (1) The three-month period for requesting a refund, pursuant to paragraph (a) of this section, starts on the date that a full fee has been paid . . ."

This request for refund is made within three months of the date the full fee was paid in this application on November 23, 2007, in the amount of \$ 970.00 (Extension Fee: \$460; Appeal Brief filing fee \$510).

NOTE: If the fee was charged to a deposit account, a request for refund must be filed within two months of the date of the charge to the deposit account.

It is believed that Applicant has a credit for one Appeal Brief Fee that was paid with respect to a Previous Appeal Brief Fee dated July 18, 2005.

Applicant respectfully requests that the Previous Appeal Brief Fee paid with the Previous Appeal Brief dated July 18, 2005 be applied to the Present Appeal Brief Fee due with the Present Appeal Brief dated November 23, 2007 in accordance with M.P.E.P. § 1207.04.

The prosecution history, in relevant part, is as follows:

- 1st Notice of Appeal dated April 18, 2005 (\$500 fee paid)
- 1st Appeal Brief Filed on July 18, 2005 (\$500 fee paid)
- Examiner reopens prosecution on October 7, 2005
- Examiner mails Office Action on October 7, 2005

Thus, the Examiner reopened prosecution of the present application without the Appeal Brief ever reaching the Board of Patent Appeals and Interferences for a decision on the merits.

Subsequently, Applicant filed a 2nd Appeal Brief dated November 23, 2007. It is therefore believed that Applicant has a credit of \$500 for the 1st Appeal Brief Fee paid back on July 18, 2005.

The relevant portion of the M.P.E.P. is M.P.E.P. § 1207.04, which states:

If, appellant elects to continue prosecution and prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the notice of appeal, appeal brief, and request for oral hearing (if applicable) will be applied to a later appeal on the same application.

III. FEE PAID FOR WHICH REFUND REQUESTED

	AMOUNT OF REFUND REQUESTED
<input type="checkbox"/> Filing Fee	\$ _____
<input type="checkbox"/> Surcharge for filing the basic filing fee on a date later than the filing date of the application (37 C.F.R. § 1.16(e) or 37 C.F.R. § 1.16(l)).	\$ _____
or	
<input type="checkbox"/> Surcharge for filing the oath or declaration on a date later than the filing date of the application (37 C.F.R. § 1.16(e)).	\$ _____
<input type="checkbox"/> Surcharge for filing the basic filing fee on a date later than the filing date of the provisional application (37 C.F.R. § 1.51(c)(1) and 37 C.F.R. 1.16(l))	\$ _____
or	
<input type="checkbox"/> Surcharge for filing the cover sheet on a date later than the filing date of the provisional application (37 C.F.R. § 1.51(c)(1) and 37 C.F.R. § 1.16(l))	\$ _____
<input type="checkbox"/> Extension of term	\$ _____
<input type="checkbox"/> Issue fee	\$ _____
<input type="checkbox"/> Patent maintenance fee	
<input type="checkbox"/> first maintenance fee	\$ _____
<input type="checkbox"/> second maintenance fee	\$ _____
<input type="checkbox"/> third maintenance fee	\$ _____
<input type="checkbox"/> Patent maintenance fee surcharge.	\$ _____
<i>NOTE: The refund provisions of § 1.28(a), for later submitted small entity statements, apply to maintenance fees. Notice of July 30, 1984, 1046 O.G. 28-37.</i>	
<input checked="" type="checkbox"/> Other (Appeal Brief filing fee)	\$500.00
TOTAL REFUND REQUESTED <u>\$500.00</u>	

IV. MANNER OF REFUND

Please make refund by crediting:

Deposit Account No. 13-0017.

Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should **not** be included on this form as it may become public.

refunding overpayment.

U.S. Application No. 09/699,019, filed October 27, 2000

Attorney Docket No. 15258US05

Request for Refund dated November 27, 2007

Respectfully submitted,

Date: November 27, 2007

/Michael T. Cruz/

Reg. No. 44,636

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